

2013 DRAFTING REQUEST

Bill

Received: **10/12/2012** Received By: **btradewe**
Wanted: **As time permits** Same as LRB:
For: **Administration-Budget** By/Representing: **Stinebrink**
May Contact: Drafter: **btradewe**
Subject: **Environment - env. cleanup** Addl. Drafters:
Extra Copies:

Submit via email: **YES**
Requester's email:
Carbon copy (CC) to:

Pre Topic:

DOA:.....Stinebrink, BB0165 -

Topic:

Superfund management assistance

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	btradewe 10/16/2012			_____			
/P1	btradewe 1/12/2013	evinz 10/19/2012	jmurphy 10/19/2012	_____	lparisi 10/19/2012		State
/1	btradewe 1/30/2013	evinz 1/12/2013	rschluet 1/14/2013	_____	lparisi 1/14/2013		State
/2		evinz	jfrantze	_____	srose		State

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
		1/30/2013	1/30/2013	_____	1/30/2013		

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/?	btradewe	/pl eev 10/19/12	/pl eev 10/19/12	<u>Jim 10/19</u>			

FE Sent For:

<END>

Tradewell, Becky

From: Hanaman, Cathlene
Sent: Wednesday, October 10, 2012 1:16 PM
To: Tradewell, Becky; Kite, Robin; Gibson-Glass, Mary
Subject: FW: Statutory Language Drafting Request
Attachments: dnr support staff.pdf

From: Cory.Stinebrink@Wisconsin.gov [mailto:Cory.Stinebrink@Wisconsin.gov]
Sent: Wednesday, October 10, 2012 12:36 PM
To: Hanaman, Cathlene
Cc: Thornton, Scott - DOA; Wavrunek, Leah J - DOA; Stinebrink, Cory R - DOA
Subject: Statutory Language Drafting Request

Biennial Budget: 2013-15

Topic: Superfund Management Assistance Program

Tracking Code: BB0165

SBO Team: AEJ

SBO Analyst: Stinebrink, Cory R - DOA
Phone: (608) 266-1103
E-mail: Cory.Stinebrink@Wisconsin.gov

Agency Acronym: DNR

Agency Number: 370

Priority: Medium

Intent:

Design a superfund management assistance program whereby responsible parties may enter into agreements with DNR to reimburse the state for staff involvement at Superfund cleanup sites in Wisconsin.

See attached

Attachments: True

Please send completed drafts to statlanguage@wisapps.wi.gov

Wisconsin DNR Staff Support at EPA Priority Sites

Request

- Proposal would allow Responsible Parties (RP's) at EPA Superfund Sites to reimburse Wisconsin DNR directly for efforts provided at the RP's site rather than having them make the payment to EPA which adds an overhead assessment to the fee they charge
- The Bureau for Remediation & Redevelopment (RR) provides management and technical support to the EPA Superfund National Priorities List (NPL) sites throughout Wisconsin (45 in total)
- RPs will fully reimburse the department for staff involvement at NPL sites, but they seek to avoid paying Superfund overhead costs.

Benefits

- Funding to support management of EPA priority sites in Wisconsin would continue under the Superfund Multisite Cooperative agreement for those sites that RPs choose not to enter into the state program.
- RPs will avoid having to pay Superfund indirect for the state's involvement at their sites.
- This shift in administration of Superfund Sites benefits Wisconsin by providing a more predictable funding source for the state's oversight activities.
- This is largely due to the fact that states throughout EPA Region 5 are awarded funding based on the number of sites and the status (i.e. phase) of cleanup activities

Issue Statement

- The Bureau for Remediation & Redevelopment (RR) provides management and technical support to the EPA at Superfund National Priority List (NPL) sites throughout Wisconsin (45 in total)
- Superfund NPL sites are generally large and complex, requiring extensive assistance from the department to ensure protection of public health and the environment.
- Responsible Parties (RPs) with Sites in Wisconsin seek to pay the DNR directly for the department's involvement at Superfund cleanup sites for which the RP is responsible.
- RPs seek to fully reimburse the department for staff involvement at NPL sites, but seek to avoid paying Superfund overhead costs.
- Preliminary discussions with EPA lead department staff to believe that EPA would be amenable to such an agreement

Background

The Bureau for Remediation & Redevelopment (RR) provides management and technical support to the EPA at Superfund National Priority List (NPL) sites throughout Wisconsin. Superfund NPL sites are generally large and complex and require extensive assistance from the department to ensure the protection of public health and the environment. This assistance includes involvement in all phases of the Superfund cleanup process including: Remediation Investigation / Feasibility Study, Remedial Design, Remedial Action, and Long-Term Response Actions. The department also involves the public and local officials in the development of cleanup plans. The department receives funding directly from EPA to support this work through the Superfund Multisite Cooperative Agreement.

The Multisite grant provides \$283,978 in annual funding to the state and funds 2.5 FTEs in the department (2.0 FTE in RR and 0.5 FTE in Water) at 45 Superfund cleanup sites throughout Wisconsin.

Under the Multisite agreement, department staff code their time to site-specific activity codes. The department then bills EPA for reimbursement and provides EPA with expenditure detail at each of the cleanup sites. EPA then decides whether or not to pursue a cost recovery effort with the responsible

Implementation:

- Statutory language to design a Superfund Management Assistance program whereby RPs may enter into agreements with the department to reimburse the state for staff involvement at Superfund cleanup sites in Wisconsin.
- The Superfund Management Assistance statutes should direct the department to promulgate rules to establish a fee schedule to offset the cost of the department's activities at these Superfund cleanup sites.
- The fee schedule for the Superfund Management Assistance program could be modeled after the VPLE Program, established in Administrative code NR 750.
- Revenues from the Superfund Management Assistance program would be deposited into a new appropriation established within the Environmental Management Account.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0386/P1

RCT.....

eev

In 10/16

DOA:.....Stinebrink, BB0165 – Superfund management assistance

FOR 2013-2015 BUDGET — NOT READY FOR INTRODUCTION

1 AN ACT ^{don't gen} relating to: the budget.

Analysis by the Legislative Reference Bureau

ENVIRONMENT

HAZARDOUS SUBSTANCES AND ENVIRONMENTAL CLEANUP

^p ⁼ ^A Current law authorizes DNR to cooperate with the federal environmental protection agency in implementing the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA, also called the Superfund Act), which provides for the clean up of contaminated property by responsible parties. ^E

^e This bill authorizes DNR to enter into an agreement with a responsible party to provide provide management and technical support for a cleanup under CERCLA. The bill requires a responsible party to reimburse DNR for the support provided under an agreement.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

2 SECTION 1. 20.370 (2) (di) of the statutes is created to read:

1 20.370 (2) (di) *Solid waste management* ^Δ~~superfund assistance~~. All moneys
2 received under s. 292.31 (7) (d) to provide management and technical support for
3 remedial action under 42 USC 9601 to 9675.

****NOTE: This SECTION involves a change in an appropriation that must be
reflected in the revised schedule in s. 20.005, stats.

4 SECTION 2. 292.31 (7) (d) of the statutes is created to read:

5 292.31 (7) (d) 1. The department may enter into an agreement with a
6 responsible party under the federal Comprehensive Environmental Response,
7 Compensation, and Liability Act, 42 USC 9601 to 9675, to provide management and
8 technical support for a remedial action under the act. A responsible party shall
9 reimburse the department for the costs the department incurs under an agreement,
10 in accordance with subd. 2.

11 2. The department shall promulgate rules for determining the amount of
12 reimbursement that a responsible party is required to pay under subd. 1.

13 (END)

Tradewell, Becky

From: Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Sent: Friday, January 11, 2013 1:50 PM
To: Tradewell, Becky
Subject: BB0165: 0386
Attachments: EPA Superfund Site suggested changes.pdf

Becky-

I just got some feedback from the draft for Superfund management assistance from DNR. I attached what they shared with me.

From what they've told me the language as drafted works, but they'd like to incorporate a reference to existing rules for fees. Attached are the 3 options they've suggested in order of preference. So, for a redraft we'll focus on Option #1 unless there is some sort of legal issue with that.

Let me know if you have any questions. This is the last re-draft for your drafts, other than Title V and PECFA, that I am aware of even being out there as a possibility unless something massively unexpected happens.

Cory Stinebrink
Executive Policy and Budget Analyst
State Budget Office
(608)266-1103

Option #1: Write in the statute that DNR would use the same hourly billing rate established in ch NR 750.07(2):

HOURLY BILLING RATE. The department shall calculate on an annual basis an hourly billing rate at which oversight fees shall be assessed. The hourly billing rate shall be calculated by averaging hourly wages of personnel employed by the department in the contaminated land recycling program, and by multiplying the sum by the annual fringe benefit rate and the annual indirect rate. Indirect costs include costs associated with personnel providing support to employees who provide oversight, daily operating costs, travel, equipment, supplies and training.

Option #2: Include the language above directly in the statute, with one minor change:

*Example
class
included in
staff
charge*

HOURLY BILLING RATE. The department shall calculate on an annual basis an hourly billing rate at which oversight fees shall be assessed. The hourly billing rate shall be calculated by averaging hourly wages of personnel employed by the department ~~in the contaminated land recycling program~~ as Remediation & Redevelopment project managers (which are generally classified as Hydrogeologist - ADV) and by multiplying the sum by the annual fringe benefit rate and the annual indirect rate. Indirect costs include costs associated with personnel providing support to employees who provide oversight, daily operating costs, travel, equipment, supplies and training.

Option #3: Charge fees established in NR 749.



State of Wisconsin
2013 - 2014 LEGISLATURE

In 1/12



LRB-0386/P1

RCT:eev:jm

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DOA:.....Stinebrink, BB0165 - Superfund management assistance

FOR 2013-2015 BUDGET -- NOT READY FOR INTRODUCTION

1

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This bill authorizes DNR to enter into an agreement with a responsible party to provide management and technical support for a cleanup under CERCLA. The bill requires a responsible party to reimburse DNR for the support provided under an agreement.

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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9 reimburse the department for the costs the department incurs under an agreement,
10 in accordance with subd. 2. *using the hourly billing rate calculated*

11 2. The department shall promulgate rules for determining the amount of
12 reimbursement that a responsible party is required to pay under subd. 1.

13 (END)

*under s. NR 750.07 (2), Wis. Adm.
Code*

Tradewell, Becky

From: Stinebrink, Cory R - DOA <Cory.Stinebrink@wisconsin.gov>
Sent: Wednesday, January 30, 2013 11:19 AM
To: Tradewell, Becky
Subject: 0386

Becky-

DNR has just gotten back to me about the Superfund management assistance draft, and they are having some concerns about the appropriation that is created in it.

So, if we could redraft this one to remove the new appropriation created in Section 1. Instead, they would like to have all of this funded out of 20.370(2)(dh) Solid waste management – remediated property. So, I would guess adding some reference to your newly created s.292.31(7)(d) in Section 2 of the current draft.

Did I express that coherently? If not, let me know if you have any questions.

Cory Stinebrink
Executive Policy and Budget Analyst
State Budget Office
(608)266-1103



State of Wisconsin
2013 - 2014 LEGISLATURE

In 1/30



LRB-0386/2

RCT:eev:rs

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DOA:.....Stinebrink, BB0165 - Superfund management assistance

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(END)

**2013-2014 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0386/2ins
RCT:.....

Insert 2-4

SECTION 1. 20.370 (2) (dh) of the statutes is amended to read:

20.370 (2) (dh) *Solid waste management — remediated property.* All moneys received under ss. 292.11 (7) (d) 2., 292.13 (3), 292.15 (5), 292.21 (1) (c) 1. d., 292.35 (13), 292.31 (7) (d), 292.55 (2), 292.57 (2), and 292.94 for the department's activities related to the issuance of determinations under s. 292.13 (2), remedial action cost recovery under s. 292.35, remediation of property under ss. 292.11 (7) (d), 292.15 (2), 292.55 (1), and 292.57, providing management and technical support for remedial action under s. 42 USC 9601 to 9675, and conducting reviews described in s. 292.94.

History: 1971 c. 40, 95; 1971 c. 125 ss. 101 to 121, 522 (1); 1971 c. 211, 215, 277, 330, 336; 1973 c. 12 s. 37; 1973 c. 90, 100; 1973 c. 243 s. 82; 1973 c. 296, 298, 301, 318, 333, 336; 1975 c. 8, 39, 51, 91, 198; 1975 c. 224 ss. 7d, 7f, 7m, 17 to 19p; 1977 c. 29 ss. 181 to 234, 1657 (34); 1977 c. 274, 370, 374, 376, 377; 1977 c. 418 ss. 95 to 110, 929 (37); 1977 c. 421, 432; 1977 c. 447 ss. 42 to 44, 210; 1979 c. 34 ss. 199 to 322, 2102 (39) (a); 1979 c. 221; 1979 c. 361 s. 113; 1981 c. 1, 20, 86, 95, 131, 294, 330; 1981 c. 374 ss. 6, 7, 148, 150; 1983 a. 27 ss. 216m to 269, 2202 (23); 1983 a. 75, 181, 243, 397; 1983 a. 410 ss. 5m to 11, 2202 (38); 1983 a. 413; 1983 a. 416 ss. 1, 19; 1983 a. 426; 1985 a. 16, 22; 1985 a. 29 ss. 282d to 356, 3202 (26) (a), (39) (a), (c), (dm), (l); 1985 a. 46, 60, 65, 120, 202, 296; 1987 a. 27, 98, 110, 290, 295, 298, 305; 1987 a. 312 s. 17; 1987 a. 384, 397, 399, 403, 418; 1989 a. 31, 128, 284, 288, 326; 1989 a. 335 ss. 22nn to 30g, 89; 1989 a. 336, 350, 359, 366; 1991 a. 32; 1991 a. 39 ss. 326b to 394, 594c; 1991 a. 254, 269, 300, 309, 315; 1993 a. 16, 75, 166, 213, 343, 349, 415, 421, 453, 464; 1993 a. 490 ss. 18, 271; 1995 a. 27, 201, 225, 227, 296, 378, 459; 1997 a. 27, 35; 1997 a. 237 ss. 33 to 38d, 727g; 1997 a. 248; 1999 a. 9, 32, 74, 92; 1999 a. 150 s. 672; 1999 a. 185; 2001 a. 16, 56, 92, 108, 109; 2003 a. 33, 228, 251, 310, 314, 321, 327; 2005 a. 25, 286, 288, 347, 394; 2007 a. 20, 50, 97; 2009 a. 28, 42, 50, 175, 276, 365, 373; 2011 a. 32, 103, 118, 148, 151, 169, 208; 2011 a. 257 s. 56; s. 13.92 (1) (bm) 2.



State of Wisconsin
2013 - 2014 LEGISLATURE



LRB-0386/2
RCT:eev:jf

DOA:.....Stinebrink, BB0165 – Superfund management assistance

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11 department for the costs the department incurs under an agreement, using the
12 hourly billing rate calculated under s. NR 750.07 (2), Wis. Adm. Code.

13 (END)